

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1135

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 3-7-85
DATE FOR REVIEW 3-11-85
DATE DUE 3-21-85

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 3-20-85 Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 3-22-85 Revisor approved 3/8/85 disapproved _____

✓ Rule as Adopted

_____ Rule as Proposed

✓ Order Adopting 2.26.85 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 7.16.84 + comments

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency contains small biz statement.

✓ Affidavit of Mailing Notice or rulemaking
11.9.85 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
11.12.84 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
✓ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness includes small biz statement + DOF approval of fee schedule.

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

March 6, 1985

ADDRESS REPLY TO:
ATTORNEY GENERAL'S OFFICE
POLLUTION CONTROL DIVISION
1935 WEST COUNTY ROAD B-2
ROSEVILLE, MN 55113
TELEPHONE: (612) 296-7342

RECEIVED
MAR 07 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Mr. Mike Miles
Assistant Attorney General
Office of the Attorney General
Administration Building
St. Paul, MN 55155

Re: Amendments to 6 MCAR §§4.9701 - 4.9706 (Minnesota Rules Parts 7046.0010 - 7046.0070), Hazardous Waste Facility and Generator Fee Rules

Dear Mr. Miles:

On February 26, 1985, the Minnesota Pollution Control Agency adopted amendments to 6 MCAR §§4.9701 - 4.9706 (Minnesota Rules Parts 7046.0010 - 7046.0070), Hazardous Waste Facility and Generator Fee Rules. Enclosed for your review are the following:

1. Rule Amendments as adopted (original and three copies).

2. Order Adopting Rule Amendments (two copies).

3. Certificate of Agency's Resolution Adopting Rule Amendments.

4. Notice of intent to solicit outside opinion (9 S.R. 179, July 16, 1984).

5. Copies of written comments received pursuant to notice of intent to solicit outside opinion.

6. Order for Notice of Intent to Adopt Amendments to Rules Without a Public Hearing.

7. Certificate of Agency's Authorizing Resolution.

8. Notice of Intent to Adopt Rules Without A Public Hearing and rules as proposed (9 S.R. 1051, November 12, 1984).

9. Copies of the written comments received during the comment period.

10. Notice of Intent to Adopt Amendments to Rules Without a Public Hearing, as mailed.

11. Affidavit of Mailing, mailing list, and Certificate concerning mailing list.

12. Rule Amendments as Proposed.

13. Findings of Fact and Conclusions.

14. Statement of Need and Reasonableness.

15. Statement of Compliance with Rulemaking Procedures.

16. Affidavit Regarding Notification of Submission to Attorney General.

Very truly yours,

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : THOMAS J. KALITOWSKI, Executive Director
Minnesota Pollution Control Agency

DATE: 3-22-85

ATTN: JOCELYN F. OLSON
Special Assistant Attorney General

FROM : LARRY D. STARNS LDS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: Proposed Amendments to 6 MCAR §§ 4.9701-4.9706 (Minnesota Rules Parts 7046.0010-7046.0070), Hazardous Waste Facility and Generator Fee Rules.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

LDS:sz
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Pollution Control Agency

Adopted Rules Governing Hazardous Waste Fees

Rules as Adopted

7046.0010 DEFINITIONS.

Subpart 1. to 4. [Unchanged.]

Subp. 4a. **Free liquids.** "Free liquids" means liquids that readily separate from the solid portion of the waste under ambient temperature and pressure.

Subp. 5. to 17. [Unchanged.]

Subp. 17a. **Response action.** "Response action" means removal or remedial action taken according to the provisions of the Environmental Response and Liability Act, Minnesota Statutes, sections 115B.01 to 115B.24, or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law Number 96-510.

Subp. 18. to 24. [Unchanged.]

Subp. 25. **Waste stream.** "Waste stream" means all wastes of a particular composition generated by the same process at a generator's site.

FofF 7a

7046.0020 HAZARDOUS WASTE FACILITY FEES.

Subpart 1. **Fee schedule for five-year permits.** A person applying for issuance or reissuance of a five-year permit for a hazardous waste facility shall remit the permit application fee or permit reissuance fee given in item A or B. A person who owns or operates a hazardous waste facility that is in operation on July 1 in any year shall remit the annual facility operator's fee for that fiscal year.

	Permit Application Fee	Annual Facility Operator's Fee	Permit Reissuance Fee
A. Storage			
Tanks and containers indoors			
Total capacity greater than	$ 750	$ 1,100	$ 375

550 gallons			
Total capacity 550 gallons or less	500	485	250
Tanks and containers outdoors			
Total capacity greater than 550 gallons	1,500	2,200	750
Total capacity 550 gallons or less	1,000	875	500
Piles	4,500	6,300	2,250
Surface impoundment	7,500	6,300	3,750
B. Disposal and treatment			
Surface impoundment	9,000	8,700	4,500
Treatment (not otherwise specified including open burning)	9,000	4,400	4,500
Thermal treatment (not including open burning)	22,500	15,300	11,250
Land treatment	22,500	15,300	11,250
Land disposal (includes surface impoundments in which waste remains after closure)	22,500	15,300	11,250

Subp. 2. [Unchanged.]

Subp. 3. **Combination facilities.** An application fee for a facility consisting of several treatment, storage, or disposal functions must be calculated according to the following schedule for application fees and annual operator's fees:

Facility Description	Fee Calculation	Permit Reissuance Fee
A. Thermal treatment + treatment + storage	Thermal treatment + 0.2 x fee for treatment + 0.2 x fee for storage	All facilities 50 percent of application fee as calculated according to schedule
B. Disposal + storage	Disposal + 0.2 x fee for storage	
C. Thermal treatment + storage	Treatment + 0.2 x fee for storage	
D. Disposal + thermal treatment	Disposal + 0.2 x fee for thermal	

		treatment
E.	Thermal treatment + disposal + treatment + storage	Disposal + 0.8 x fee for thermal treatment + 0.2 x fee for treatment + 0.2 x fee for storage
F.	Disposal + land treatment	Disposal + 0.8 x fee for land treatment
G.	Land treatment + storage	Land treatment + 0.2 x fee for storage
H.	Treatment + storage	Treatment + 0.2 x fee for storage

Subp. 4. [Unchanged.]

Subp. 5. **Payment schedule.** Fees must be made payable to the state treasurer and submitted to the director as follows:

A. The owner or operator of a facility shall remit the permit application fee when he or she submits the application.

B. The owner or operator shall submit the annual facility operator's fee not later than June 30 of each year.

C. Permit reissuance fees must be submitted with the application for permit reissuance.

Subp. 6. **Failure to submit fees.** Failure to submit fees by the required date results in the following penalties:

A. A facility permit application submitted without the facility application fee is incomplete. The director shall suspend further processing of the permit application until the appropriate fee is received by the director.

B. and C. [Unchanged.]

Subp. 7. [Unchanged.]

7046.0030 NONMETROPOLITAN AREA GENERATOR FEES.

Subpart 1. **Basis of fees.** The agency shall charge nonmetropolitan area generator fees that are based on the annual reports submitted by generators, disclosures, and other appropriate information available to the agency.

Subp. 2. **Small generator exemption.** Nonmetropolitan area generators that generate a total of less than the equivalent of ten gallons or 100 pounds of hazardous waste per year are exempt

APPROVED IN THE ... STATUTES

from the generator fee requirements of this part.

For purposes of this part, a conversion factor of one gallon of hazardous waste equals ten pounds of hazardous waste will be used.

Subp. 2a. **Retroactive fee collection.** Annual fees, generator surcharges, and initial fees must be paid by generators for each fiscal year beginning July 1, 1983, for those years in which the generator generated hazardous wastes according to the fee schedules in effect for each of those fiscal years.

Subp. 3. **Initial fees.** Initial fees must be paid by a nonmetropolitan generator who is a new generator after February 5, 1984, or who has failed to submit a disclosure prior to July 1, 1983, or who has added a waste not previously listed on a disclosure. Waste streams consisting of less than 165 gallons per year or 1,650 pounds per year of unsewered solid or liquid waste which is recycled, reused, or recovered off-site are not subject to the initial fees for that waste stream. FF 7b

Initial fees for nonmetropolitan area generators are as follows:

A. For unsewered liquid waste, the initial fee is $100 plus $50 for each additional waste stream over one.

B. For sewered liquid waste, the initial fee is $40.

C. For unsewered solid waste, the initial fee is $100 plus $50 for each additional waste stream over one.

Subp. 4. **Fee for previously unreported waste.** If a generator had filed a disclosure and had been producing a waste that was not listed on the disclosure, the generator shall pay a fee of $40 plus the annual fees and surcharges according to the fee schedules in effect for each year in which that waste had been produced.

Subp. 4a. **Fee for new process wastes.** If a generator had previously filed a disclosure and begins a new process that had not previously been listed on the disclosure, the generator shall pay a fee of $40 to the agency for each new waste stream.

Subp. 5. **Annual fees.** Nonmetropolitan area generators

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shall submit annual fees as follows:

Waste Category	11-55 gallons per year	56-500 gallons per year	501-1000 gallons per year	1000+ gallons per year
Unsewered liquid waste	$40	$90 + $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one	$130 + $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one	$130 + $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one plus $16 for each additional 1000 gallons
Sewered liquid waste	11 or more total gallons of sewered waste - $100 per year			
	101-550 pounds per year	551-5000 pounds per year	over 5000 pounds per year	
Unsewered solid waste (solid waste reported in terms of volume, e.g. 55 gallon drums, will be converted to weight units by a conversion factor of 10 pounds per gallon reported)	$40	$90 + $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one	$130 + $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one plus $7 for each additional 5000 pounds or fraction thereof	

Subp. 6. **Payment schedule.** A nonmetropolitan area generator shall submit fees within 60 days upon receipt of the notice from the director that the fees are due. Fees submitted later than 30 days after the due date are deemed late.

A nonmetropolitan area generator shall submit a check for the required amount to the director, made payable to the state treasurer.

Subp. 7. **Failure to submit fees.** If a nonmetropolitan area generator fails to submit the required fees within 30 days of the due date, the generator shall pay the fees plus late fees for each 30-day period or fraction that the fee remains unpaid. The late fee for each of the three 30-day periods or fraction between the due date and 90 days beyond the due date is ten percent of the total of the annual fee. Beyond 90 days, the

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late fee for each 30-day period or fraction beyond 90 days is 15 percent of the annual fee.

If a nonmetropolitan area generator fails to submit the requested fees within 90 days of the due date, the generator becomes liable for reasonable additional expenses the agency incurs in collection of the fee, in addition to the fees and late fees. ~~These additional expenses include but are not limited to additional agency staff expenses (on a per hour basis, including staff fringe benefits and indirect charges), mileage charges, litigation expenses (including the attorney general's expenses), and collection agency or other fees.~~ FF 70

7046.0040 GENERATOR SURCHARGE.

Subpart 1. **In general.** All generators in Minnesota are subject to an annual surcharge equal to 50 percent of the annual fee. Payment must be made as provided in subparts 2 and 3.

Subp. 2. and 3. [Unchanged.]

REPEALER. Minnesota Rules, part 7046.0050, subpart 1 is repealed.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 22 1985
Joan Anderson Growe
Secretary of State
10:50 AM

APPROVED AS TO LEGALITY
March 20, 1985
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

Rules as proposed

7046.0010 DEFINITIONS.

Subpart 1. to 4. [Unchanged.]

Subp. 4a. **Free liquids.** "Free liquids" means liquids that readily separate from the solid portion of the waste under ambient temperature and pressure.

Subp. 5. to 17. [Unchanged.]

Subp. 17a. **Response action.** "Response action" means removal or remedial action taken according to the provisions of the Environmental Response and Liability Act, Minnesota Statutes, sections 115B.01 to 115B.24, or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law Number 96-510.

Subp. 18. to 24. [Unchanged.]

7046.0020 HAZARDOUS WASTE FACILITY FEES.

Subpart 1. **Fee schedule for five-year permits.** ~~A facility owner or operator who seeks a five-year permit shall remit fees as follows:~~ A person applying for issuance or reissuance of a five-year permit for a hazardous waste facility shall remit the permit application fee or permit reissuance fee given in item A or B. A person who owns or operates a hazardous waste facility that is in operation on July 1 in any year shall remit the annual facility operator's fee for that fiscal year.

	Permit Application Fee	Annual Facility Operator's Fee	Permit Reissuance Fee
A. Storage			
Tanks and containers indoors			
Total capacity greater than 550 gallons	$ 750	$ ~~225~~ 1,100	$ 375
Total capacity 550 gallons or less	500	~~100~~ 485	250
Tanks and containers outdoors			
Total capacity greater than 550 gallons	1,500	~~450~~ 2,200	750

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Total capacity 550 gallons or less	1,000	~~180~~	875	500
Piles	4,500	~~1,300~~	6,300	2,250
Surface impoundment	7,500	~~1,300~~	6,300	3,750
B. Disposal and treatment				
Surface impoundment	9,000	~~1,800~~	8,700	4,500
Treatment (not otherwise specified including open burning)	9,000	~~900~~	4,400	4,500
Thermal treatment (not including open burning)	22,500	~~3,150~~	15,300	11,250
Land treatment	22,500	~~3,150~~	15,300	11,250
Land disposal (includes surface impoundments in which waste remains after closure)	22,500	~~3,150~~	15,300	11,250

Subp. 2. [Unchanged.]

Subp. 3. **Combination facilities.** An application fee for a facility consisting of several treatment, storage, or disposal functions must be calculated according to the following schedule for application fees and annual operator's fees:

Facility Description	Fee Calculation	Permit Reissuance Fee
A. Thermal treatment + treatment + storage	Thermal treatment + 0.2 x fee for treatment + 0.2 x fee for storage	All facilities 50 percent of application fee as calculated according to schedule
B. Disposal + storage	Disposal + 0.2 x fee for storage	
C. Thermal treatment + storage	Treatment + 0.2 x fee for storage	
D. Disposal + thermal treatment	Disposal + 0.2 x fee for thermal treatment	
E. Thermal treatment + disposal + treatment + storage	Disposal + 0.8 x fee for thermal treatment + 0.2 x fee for treatment + 0.2 x fee for storage	
F. Disposal + land treatment	Disposal + 0.8 x fee for land treatment	

APPROVED AS TO FORM AND LEGALITY BY REVISOR OF STATUTES OFFICE BY:

G.	Land treatment + storage	Land treatment + 0.2 x fee for storage
H.	Treatment + storage	Treatment + 0.2 x fee for storage

Subp. 4. [Unchanged.]

Subp. 5. **Payment schedule.** Fees must be made payable to the state treasurer and submitted to the director as follows:

~~A. For facilities which have submitted the part B application as described in Code of Federal Regulations, title 40, parts 122 and 264 prior to February 6, 1984, the owner or operator shall remit payment of the appropriate fees within 60 days of February 6, 1984, provided permits have not been issued as of February 6, 1984.~~

~~B. For facilities which have not submitted the part B application,~~ The owner or operator of a facility shall remit the permit application fee when he or she submits the application ~~or facility plans and specifications for a new facility~~.

~~C.~~ B. The owner or operator shall submit the annual facility operator's fee not later than June 30 of each year.

~~B.~~ C. Permit reissuance fees must be submitted with the application for permit reissuance.

Subp. 6. **Failure to submit fees.** Failure to submit fees by the required date results in the following penalties:

A. A facility permit application submitted without the facility application fee is incomplete. The director shall suspend further processing of the permit application until the appropriate fee is received by the director.

B. and C. [Unchanged.]

Subp. 7. [Unchanged.]

7046.0030 NONMETROPOLITAN AREA GENERATOR FEES.

Subpart 1. **Basis of fees.** The agency shall charge nonmetropolitan area generator fees that are based on the annual reports submitted by generators, disclosures, ~~or~~ and other appropriate information available to the agency.

Subp. 2. **Small generator exemption.** Nonmetropolitan area generators that generate a total of less than the equivalent of

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ten gallons or 100 pounds of hazardous waste per year are exempt from the generator fee requirements of this part.

For purposes of this part, a conversion factor of one gallon of hazardous waste equals ten pounds of hazardous waste will be used.

Subp. 2a. **Retroactive fee collection.** Annual fees, generator surcharges, and initial fees must be paid by generators for each fiscal year beginning July 1, 1983, for those years in which the generator generated hazardous wastes according to the fee schedules in effect for each of those fiscal years.

Subp. 3. **Initial fees.** Initial fees must be paid by a nonmetropolitan generator who is a new generator after ~~the effective-date-of-parts-7046.0010-to-7046.0070~~ February 5, 1984, or who has failed to submit a disclosure prior to July 1, 1983, or who has added a waste not previously listed on a disclosure.

Initial fees for nonmetropolitan area generators are as follows:

A. For unsewered liquid waste, the initial fee is ~~$60~~ $100 plus ~~$40~~ $50 for each additional waste stream over one.

B. For sewered liquid waste, the initial fee is ~~$30~~ $40.

C. For unsewered solid waste, the initial fee is ~~$60~~ $100 plus ~~$40~~ $50 for each additional waste stream over one.

Subp. 4. **Fee for previously unreported waste.** If a generator ~~adds-a-waste-that-has-not-been-previously-reported-to-the-agency,-the-generator-shall-pay-a-fee-of-$40-to-the-agency-for-each-new-waste-stream~~ had filed a disclosure and had been producing a waste that was not listed on the disclosure, the generator shall pay a fee of $40 plus the annual fees and surcharges according to the fee schedules in effect for each year in which that waste had been produced.

Subp. 4a. **Fee for new process wastes.** If a generator had previously filed a disclosure and begins a new process that had

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not previously been listed on the disclosure, the generator shall pay a fee of $40 to the agency for each new waste stream.

Subp. 5. **Annual fees.** Nonmetropolitan area generators shall submit annual fees as follows:

Waste Category	11-55 gallons per year	56-500 gallons per year	501-1000 gallons per year	1000+ gallons per year
Unsewered liquid waste	~~$30~~ $40	~~$60~~ $90 + ~~$20~~ $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one	~~$90~~ $130 + ~~$20~~ $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one	~~$90~~ $130 + ~~$20~~ $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one plus ~~$12~~ $16 for each additional 1000 gallons
Sewered liquid waste	~~All volumes---$75 per year all waste streams~~ 11 or more total gallons of sewered waste - $100 per year			
	101-550 pounds per year	551-5000 pounds per year	over 5000 pounds per year	
Unsewered solid waste (solid waste reported in terms of volume, e.g. 55 gallon drums, will be converted to weight units by a conversion factor of 10 pounds per gallon reported)	~~$30~~ $40	~~$60~~ $90 + ~~$20~~ $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one	~~$90~~ $130 + ~~$20~~ $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one plus ~~$5~~ $7 for each additional 5000 pounds or fraction thereof	

Subp. 6. **Payment schedule.** ~~In the fiscal year ending June 30, 1984,~~ A nonmetropolitan area generator shall submit fees within 60 days upon receipt of the notice from the director that the fees are due. Fees submitted later than 30 days after the due date are deemed late.

~~Following the first annual payment, a nonmetropolitan area generator shall remit fees according to the following schedule based on the "Standard Industrial Classification" (SIC) as designated in the Standard Industrial Classification Manual (1972), Executive Office of the President, Office of Management~~

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~~and-Budget,-United-States-Government-Printing-Office.--If-a generator-has-more-than-one-SIC-number,-that-number-which-occurs first-in-the-table-determines-the-date-fees-are-due.~~

~~Standard-Industrial Classification~~	~~Type-of-Activity~~	~~Date-Due~~
~~29~~	~~Petroleum-and-coal~~	~~July-1~~
~~31~~	~~Tanning~~	~~July-1~~
~~33~~	~~Primary-Metal~~	~~July-1~~
~~36~~	~~Electric-machinery~~	~~July-1~~
~~49~~	~~Electric-power-generating~~	~~July-1~~
~~80~~	~~Health-services~~	~~July-1~~
~~82~~	~~Education-services~~	~~July-1~~
~~91~~	~~Government~~	~~July-1~~
~~26~~	~~Paper~~	~~October-1~~
~~28~~	~~Chemicals~~	~~October-1~~
~~34~~	~~Fabricated-metal~~	~~October-1~~
~~35~~	~~Machinery-(except-electrical)~~	~~October-1~~
~~20~~	~~Food~~	~~January-1~~
~~22~~	~~Textiles~~	~~January-1~~
~~24~~	~~Lumber-and-wood~~	~~January-1~~
~~27~~	~~Printing~~	~~January-1~~
~~32~~	~~Stone,-clay,-and-glass~~	~~January-1~~
~~40~~	~~Railroads~~	~~January-1~~
~~45~~	~~Airlines~~	~~January-1~~
~~25~~	~~Furniture~~	~~April-1~~
~~30~~	~~Rubber-and-plastic~~	~~April-1~~
~~37~~	~~Transportation-equipment~~	~~April-1~~
~~38~~	~~Measuring-instruments~~	~~April-1~~
~~39~~	~~Miscellaneous-manufacturing~~	~~April-1~~
~~51~~	~~Wholesale-nondurables~~	~~April-1~~
~~55~~	~~Automotive-sales~~	~~April-1~~
~~75~~	~~Automotive-repair~~	~~April-1~~
	~~All-others-not-listed-above~~	~~April-1~~

A nonmetropolitan area generator shall submit a check for the required amount to the director, made payable to the state treasurer.

Subp. 7. **Failure to submit fees.** If a nonmetropolitan area generator fails to submit the required fees within 30 days of the due date, the generator shall pay a the fees plus late ~~fee-of-ten-percent-of-the-annual-fee-and-the-unpaid-penalty~~ fees for each 30-day period or fraction that the fee remains unpaid, ~~up-to-90-days~~. The late fee for each of the three 30-day periods or fraction between the due date and 90 days beyond the due date is ten percent of the total of the annual fee. Beyond 90 days, the late fee for each 30-day period or fraction beyond 90 days is 15 percent of the annual fee ~~and-the-unpaid-penalty for-each-30-day-period-or-fraction-that-the-fee-remains-unpaid~~.

If a nonmetropolitan area generator fails to submit the requested fees within 90 days of the due date, the generator

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becomes liable for reasonable additional expenses the agency incurs in collection of the fee, in addition to the fees and late fees. These additional expenses include but are not limited to additional agency staff expenses (on a per hour basis, including staff fringe benefits and indirect charges), mileage charges, litigation expenses (including the attorney general's expenses), and collection agency or other fees.

7046.0040 GENERATOR SURCHARGE.

Subpart 1. **In general.** All generators in Minnesota are subject to an annual surcharge equal to ~~17.5~~ 50 percent of the annual fee. Payment must be made as provided in subparts 2 and 3.

Subp. 2. and 3. [Unchanged.]

REPEALER. Minnesota Rules, part 7046.0050, subpart 1 is repealed.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD649

Agency: Pollution Control Agency

Division: Solid and Hazardous Waste Division

Agency Contact: Steve Lee 297-1779

Minnesota Rules: Parts 7046.0010 to 7046.0050

Title: Proposed Rules Governing Hazardous Waste Fees

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Maryanne V. Hruby
Assistant Revisor
Phone: 297-2948
Date: October 26, 1984

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Proposed Amendments to 6 MCAR §§4.9701 - 4.9706 (Minnesota Rules Parts 7046.0010 - 7046.0070), Hazardous Waste Facility and Generator Fee Rules

ORDER ADOPTING RULE AMENDMENTS

Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rules without a public hearing was published in the State Register on November 12, 1984, and was sent by United States mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §14.14 (1984) on November 9, 1984. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, reviewing and considering the comments, and after determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to 6 MCAR §§4.9701 - 4.9706 (Minnesota Rules Parts 7046.0010 - 7046.0070), Hazardous Waste Facility and Generator Fee Rules are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. §116.12 (1984).

Dated this 26th day of February, 1985.

DUANE DAHLBERG
Chairperson

THOMAS J. KALITOWSKI
Executive Director

A copy of the determined wage rates for Minnesota counties may be obtained by writing to the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155. The charges for the cost of copying and mailing are $.50 for the first county and $.30 for any subsequent copies of the same or other counties. For all 87 counties the charge is $25.00. A $1.50 handling charge must be included for each order. Minnesota sales tax of 6% must be added to all orders.

A check or money order payable to the State of Minnesota must accompany each request.

Steve Keefe, Commissioner
Department of Labor & Industry

Metropolitan Council

Notice of Review Schedule, Water Quality Management Development Guide/Policy Plan, Part 1 Sewage Treatment and Handling Policy Plan

The Metropolitan Council will begin review of a proposed amendment to Part 1 of its Metropolitan Development Guide chapter on water resources management. The proposed change would authorize the Metropolitan Waste Control Commission to include the middle Belt Line project in its development program.

The following is a tentative schedule for reviewing the proposed amendment:

July 24, 1984 (Tuesday)	Mayors' Task Force review of proposal
July 30 (Monday)	Committee on Commissions reviews public hearing draft
August 9 (Thursday)	The Metropolitan Council adopts the amendment for public hearing
September 21 (Friday)	Public hearing on the proposed amendment before the Metropolitan Council
October 5 (Friday)	Hearing record closes
October 12 (Friday)	Hearing report and final document available
October 17 (Wednesday)	Committee on Commissions reviews final hearing report and approves final amendment
October 25 (Thursday)	Metropolitan Council adopts final amendment

This schedule is tentative and subject to change. A subsequent notice of public hearing will be published. If you have any questions regarding the schedule or amendment, call Ray Leek of the Council's Planning Assistance staff at 291-6567.

Pollution Control Agency
Solid and Hazardous Waste Division

Outside Opinion Sought Regarding Amendment of Rules Establishing Fee Systems for Hazardous Waste Generators and Hazardous Waste Facilities

Notice is hereby given that the Minnesota Pollution Control Agency (agency) is seeking information or opinions from sources outside the agency in preparing amendments to 6 MCAR §§ 4.9701-4.9706 (Minn. Rules Parts 7046.0010-7.046.0070), Hazardous Waste Facility and Generator Fee Rules, which were promulgated February 6, 1984 pursuant to Minn. Stat. § 116.12 (Supp. 1983). The 1983 State Department Appropriations Bill directs the agency to raise $794,400 in the biennium ending June 30, 1985 through the collection of fees from hazardous waste generators and facility operators.

The law requires establishment of fee schedules for hazardous waste facility permit application fees, annual facility operator's fees, permit reissuance fees, hazardous waste generator fees, and a generator surcharge. The facility fees should be representative of the work years of effort required by the agency to complete review of permit applications and to assure compliance of facility operations with permits and rules. The generator fees can be no higher than the fees imposed by the metropolitan counties (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington).

Minn. Stat. § 16A.128 (Supp. 1983) requires review of the fees fixed for accounts for which appropriations are made by law at least once every six months, and adjustment of the fees so that the total fees received approximate the amount appropriated for the account. The agency staff has reviewed the fees received for the State fiscal year ending June 30, 1984 and has determined that the fees at current fee levels will not raise $794,400 in the biennium ending June 30, 1985.

The Minnesota Pollution Control Agency requests information and comment concerning the subject of this rule.

Written technical statements and comments concerning these matters will be accepted for consideration until August 3, 1984 and should be addressed to the following:

Stephen Lee
Solid and Hazardous Waste Division
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113

Oral statements of technical information and comments will be accepted during regular business hours over the telephone by Mr. Paul Klinge at 612/296-7267 or in person at the above address.

Any written material received by the Minnesota Pollution Control Agency shall become part of the rulemaking record regarding these rules.

Department of Public Safety
State Fire Marshal Division

Outside Opinion Sought Regarding Proposed Rules of the State Department of Public Safety Governing an Inspection Fee for Natural Gas Pipeline Safety Activities

Notice is hereby given that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to promulgate rules establishing a fee to recover the costs related to field inspections, incident investigation, and plan review of pipeline facilities engaged in intrastate transportation of natural gas. The rules will include the amount of the fee to be assessed and the basis for assessment, which could be according to miles of transmission lines, number of customer meters, amount of inspection/investigation time involved, or other configuration or combination of methods.

The promulgation of these rules is authorized by Minnesota Statutes section 299F.63, subd. 4 as enacted by Laws 1984 Chap. 654, which requires the agency to establish a fee to cover costs of the state general fund share of the pipeline safety program.

The State Department of Public Safety requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Diane Dybevik
MN Department of Public Safety
211 Transportation Building
St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-7096 and in person at the above address.

All statements of information and comment shall be accepted until September 15, 1984. Any written material received by the State Department of Public Safety shall become part of the record in the event that the rules are promulgated.

Paul J. Tschida
Commissioner of Public Safety

Department of Transportation

Petition of the County of Aitkin for a Variance from State Aid Standards for Inslopes

Notice is hereby given that the County Board of Aitkin County has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a bridge replacement and approaches on CSAH 1 from 4,260 feet to 4,460 feet North of the Southeast corner of section 18, T48N, R26W.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9910 adopted pursuant to Minnesota Statutes Chapters 161 and 162, so as to permit an inslope of 3:1 instead of the required 4:1.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Richard P. Braun
Commissioner of Transportation

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Amendments to 6 MCAR §§4.9701 - 4.9706 (Minnesota Rules Parts 7046.0010 - 7046.0070), Hazardous Waste Facility and Generator Fee Rules

ORDER FOR NOTICE OF INTENT TO ADOPT AMENDMENTS TO RULES WITHOUT A PUBLIC HEARING

It is hereby ordered this 30th day of October, 1984, that Notice of Intent to Adopt Amendments to Rules Without a Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Pollution Control Agency for that purpose and be published in the State Register.

Thomas Kalitowski

THOMAS J. KALITOWSKI
Executive Director

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Thomas J. Kalitowski, do hereby certify that I am the Executive Director of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 23rd day of October, 1984, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified.

> BE IT RESOLVED, that the Executive Director of the Minnesota Pollution Control Agency is hereby granted the authority to sign an order of the Minnesota Pollution Control Agency directing that notice be given of the Minnesota Pollution Control Agency's intent to adopt, without a public hearing, the attached amendments to the Hazardous Waste Fee Rule 6 MCAR §§4.9701 - 4.9706 (recodified as Minn. Rule 7046.0010 - 7046.0070).
>
> Prior to publishing the proposed rule amendments in the State Register, the Executive Director is authorized to make any form changes in the rules that the Revisor of Statutes requires the Minnesota Pollution Control Agency to make in order to obtain the Revisor's certification as required in Minnesota Statutes, section 14.07, subdision 2 (1982).

IN WITNESS WHEREOF, I have hereunto subscribed my name this 30th day of October, 1984.

Thomas Kalitowski

THOMAS J. KALITOWSKI
Executive Director

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Proposed Amendments to 6 MCAR §§4.9701 - 4.9706 (Minnesota Rules Parts 7046.0010 - 7046.0070), Hazardous Waste Facility and Generator Fee Rules

NOTICE OF INTENT TO ADOPT AMENDMENTS TO RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt without a public hearing, in accordance with the provisions of Minn. Stat. §16A.128 (Supp. 1983), amendments to 6 MCAR §§4.9701 - 4.9706 (Minnesota Rules Parts 7046.0010 - 7046.0070, Hazardous Waste Facility and Generator Fee Rules. In accordance with Minn. Stat. §16A.128 (Supp. 1983), the Agency will follow the procedure for non-controversial rules set out in Minn. Stat. §§14.22 to 14.28 (Supp. 1983), with the exception that no public hearing will be held in the event that twenty-five or more requests for hearing are received.

The proposed rule amendments are authorized by Minn. Stat. §116.12 (Supp. 1983). A copy of the proposed rules is enclosed. One free copy of the rules is available on request from the Agency. Please contact the person whose name and address appears below.

The Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments and identifies the data and information relied upon by the Agency to support the proposed amendments. Copies of the Statement of Need and Reasonableness and of the proposed amendments are available and may be obtained by contacting:

Stephen Lee
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 297-1779

Interested persons have until 4:30 p.m. on Monday, December 17, 1984, to submit comments on the proposed rule amendments. Comments should be submitted to Stephen Lee at the address stated above. The proposed rule amendments may be modified if the data and views received by the Agency before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed amendments.

One of the modifications which the Agency will be considering during the comment period is an exemption from the payment of initial generator fees for certain classes of non-metropolitan generators. The exemption is being considered for generators of small quantities of hazardous waste whose wastes are being recycled off-site, such as dry cleaners, automobile service stations, and small automobile repair facilities. The Agency encourages interested persons to submit comments on any adverse effects which the proposed rule amendments would have on the recycling practices of these generators.

Upon adoption of the amendments by the Agency Board, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rule as adopted will be sent to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final amendments as adopted, should submit a written statement of such request to Stephen Lee at the address previously stated.

You are hereby advised, pursuant to Minn. Stat. §14.115 (Supp. 1983), "Small business considerations in rulemaking," that the proposed rule amendments may have an impact on some small businesses in Minnesota. The amendments will raise annual facility fees by approximately 485 percent. Some small businesses may operate facilities subject to these fees. Many generators of hazardous waste may qualify for small business status. If waste generation and management practices remain the same, the fee increases will be approximately 70 percent for generators located in non-metropolitan area counties and 35 percent for generators located in metropolitan counties.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. §10A.01, subd. 11 (Supp. 1983) as any individual:

> (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250 not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Dated: November 8, 1984

THOMAS J. KALITOWSKI
Executive Director

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Amendments to 6 MCAR §§4.9701 - 4.9706 (Minnesota Rules Parts 7046.0010 - 7046.0070), Hazardous Waste Facility and Generator Fee Rules

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Penny Dickles being duly sworn, deposes and says:

That on the 9 day of November, 1984, at the City of Roseville, County of Ramsey, State of Minnesota, s/he served the attached Notice of Intent to Adopt Amendments to Rules Without a Public Hearing by depositing in the United States mail for first class mailing at said City of Roseville, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Pollution Control Agency for the purpose of receiving notice of the proposed adoption of rules by the Pollution Control Agency.

Penny Dickles

Subscribed and sworn to before me this
9th day of November, 1984.

Margaret Frank
Notary Public

MARGARET FRANK
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Comm. Expires Sept 26, 1985

Mr. Bob Krogram
Northwest Petroleum Assoc.
2345 Rice Street, Suite 173
St. Paul, MN 55113

Mr. Brian Ettesvold
MN Service Station Association
2700 North Rice Street
St. Paul, MN 55113

Mr. David Tollefson
Solv-Oil Service & Supply Inc.
P.O. Box 338
Hopkins, MN 55343

Mr. Greg Seitzer
H.B. Seitzer & Company, Inc.
323 South Front
Box 478
St. Peter, MN 56082

Georgine Adams
3M
P.O. Box 33331
Building 21-2W-06
St. Paul, MN 55133

Mr. John Langowski
Watlow
1241 Bundy Boulevard
Winona, MN 55987

Mr. John P. Machacek
Vice President
Northfield Foundry & Machine Co.
P.O. Box 140
Northfield, MN 55057

J. Brad Peebles
St. Regis
Corporate Engineering Division
2400 Gulf Life Tower
Jacksonville, Florida 32207

Mr. David Cole
Viking Chemical Company
838 Baker Building
Minneapolis, MN 55402

Mr. Robert B. Goss
Watkins Incorporated
150 Liberty Street
Winona, MN 55987-0570

Mr. Terry Graumann
Ottertail Power Company
215 South Cascade
Fergus Falls, MN 56537

Mr. Richard H. Jacobs
Ziegler Incorporated
901 West 94th Street
Minneapolis, MN 55420

Mr. Alan D. Hesselberg
Northern Engraving Corp.
Sparta, Wisconsin 54656

Mr. James T. Shields
Environmental Consultant
Capitol Plaza Building
485 Rice Street
St. Paul, MN 55103

Mr. Merton Hubbard
Northern Wire Products, Inc.
West Division Street
P.O. Box 70
St. Cloud, MN 56302

Mr. Gary W. Pestello
Volkmuth Printers
East Highway 23
P.O. Box 1007
St. Cloud, MN 56302

Mr. David Olsen
Division Engineer
Potlatch Corporation
Northwest Paper Division
Cloquet, MN 55720

Mr. Charles L. Draper
Pipestone Publishing Co., Inc.
Box 470
Pipestone, MN 56164

Mr. John E. Baumann
Profile Extrusions Company
800 East 10th Street
Hastings, MN 55033

Mr. Orville Broch
Peerless Chain Company
1416 East Sanborn
Winona, MN 55987

Mr. Dave Moffatt
Moffatt Incorporated
Caribou Trail
Lutsen, MN 55612

Mr. Dean R. Purdie
Bonanza Sports Mfg.
412 Western Avenue
Faribault, MN 55021

Mr. Henry J. Savelkoul
Christian, Slen, Savelkoul,
Johnson, Broberg & Kohl
222 East Main
Albert Lea, MN 56007

Mr. Dale Mueller
Telex Communications, Inc.
Rural Route #1, Box 2450
LeSueur, MN 56058

Mr. Chuck Drury
Federal Cartridge Corporation
9th & Tyler
Anoka, MN 55303

Mr. Louis Claeson
MN Automobile Dealers Assoc.
277 University Avenue
St. Paul, MN 55103

Mr. Dale R. Johnson
Dynamics Corporation of Am.
Glencoe Plant
P.O. Box 128
Glencoe, MN 55336

Mr. John C. Barrett
Pine Plating Company, Inc.
P.O. Box 999
67 Fifth Street NE
Pine Island, MN 55963

Mr. LaVar Varney
American Crystal Sugar Company
P.O. Box 1037
North 11th Street
Moorhead, MN 56560

Mr. Roger D. Ryberg
Windings, Inc.
208 North Valley Street
New Ulm, MN 56073

Mr. Jim Littig
St. Peter Regional Treatment Ctr.
100 Freeman Drive
St. Peter, MN 56082

Mr. D. W. Pennertz
Alexandria Extrusion Company
P.O. Box 847
Alexandria, MN 56308

Mr. Roland Walsh
Rollies Tank Service
Osakis, MN 56360

Mr. Art Olson
Olson & Johnson Trucks, Inc.
North Hiway 59
Box 410
Marshall, MN 56258

Mr. Joe Pervender
Potlatch Corporation
Cook Oxboard Plant
Cook, MN 55723

Mr. Donald Hubenette
County Quality, Inc.
1371 Selby Avenue
St. Paul, MN 55104

Mr. Kenneth Ische
Bureau of Engraving, Inc.
3311 Broadway Northeast
Minneapolis, MN 55413

Mr. Fishman
Schloff Chemical
3938 Meadowbrook Road
St. Louis Park, MN 55426

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Amendments to 6 MCAR §§4.9701 - 4.9706 (Minnesota Rules Parts 7046.0010 - 7046.0070), Hazardous Waste Facility and Generator Fee Rules

CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minn. Stat. §14.14 (Supp. 1983), that their names be placed on file with the Minnesota Pollution Control Agency (Agency) for the purpose of receiving notice of the proposed adoption of rules by the Agency is accurate and complete as of 12:00 P.m., this 9 day of November, 1984.

Elaine A. Zoch

Lake Superior
Industrial Bureau
828 First National Bank
Duluth, MN 55802

NSP Law Department
ATTN: Joseph D. Bizzano, Jr.
414 Nicollet Mall
Minneapolis, MN 55401

Northern States Power Co.
ATTN: G. V. Welk, Manager
Reg. Compliance and Service
414 Nicollet Mall
Minneapolis, MN 55401

MN Multi Housing Association
ATTN: John G. Horner
3100 West Lake Street
Minneapolis, MN 55416

Holmes & Graven
ATTN: Larry M. Wertheim
470 Pillsbury Center
Minneapolis, MN 55402

Potlatch Corporation
ATTN: Archie D. Chelseth
Box 510
Cloquet, MN 55720

Anoka County Community Health &
Social Service Department
ATTN: Gertrude M. James
Anoka County Courthouse, 4th Floor
Anoka, Minnesota 55303

Federal State Reports Inc.
ATTN:: State Regulation Division
5203 Leesburg Pike
Suite 1201
Falls Church, VA 22041

Lake Minnetonka Cons. Dist.
402 East Lake Street
Wayzata, MN 55391

Barbara L. Hughes
Managing Director
American Lung Ass'n, Ramsey Co.
614 Portland Avenue
St. Paul, MN 55102

General Mills, Inc.
ATTN: J.W. Haun
P.O. Box 1113
Minneapolis, MN 55440

Hessian McKasy & Soderberg
ATTN: John A. Knapp
1500 Midwest Plaza Building
Minneapolis, MN 55402

MN Association Health Care Fac.
ATTN: Rick Carter
2850 Metro Drive, Suite 429
Minneapolis, MN 55420

Petersen, Knutson, Flynn & Hetland
345 Cedar Building
Suite 800
St. Paul, MN 55101

Jones Haugh & Smith, Inc.
515 South Washington
Albert Lea, MN 56007

William Mitchell College of Law
ATTN: Prof. Marcia Gelpe
875 Summit Avenue
St. Paul, MN 55102

Color-Ad Packaging, Inc.
ATTN: Michael S. Keckeisen
360 Alabama Avenue
Minneapolis, MN 55416

The Sherwin-Williams Co.
ATTN: D. A. Cohagan
101 Prospect Avenue NW
Cleveland, Ohio 44115

Ms. Cynthia L. Weber
Conwed Corp., Patent Cor.
444 Cedar Street
P.O. Box 64237
St. Paul, MN 55164

MN Retail Merchants Assoc.
ATTN: John E. Van Doorn
180 Metro Square Building
St. Paul, MN 55101

Iowa Dept. Environ Quality
ATTN: Steven N. Williams
Henry A. Wallace Building
Des Moines, Iowa 50319

MPIRG
ATTN: Kenneth Peterson
2412 University Avenue SE
Minneapolis, MN 55414

MPIRG
ATTN: James Miller
2412 University Avenue SE
Minneapolis, MN 55414

George A. Hormel & Company
ATTN: Kevin C. Jones
Box 800
Austin, MN 55912

Ashland Petroleum Company
ATTN: Richard Hetland
P.O. Box 9
St. Paul Park, MN 55071

Blandin Paper Company
ATTN: W. J. Licke
115 First Street SW
Grand Rapids, MN 55744

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4344 IDS Center
Minneapolis, MN 55402

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Bloomington, MN 55420

Paul Deneka
Minnegasco
Dr Lab & Environ Programs
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Minneapolis, MN 55422

Lynda Weis
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Houston, MN 55943

United Power Association
ATTN: Reynold S. Rahko
Projects Coord Division
Elk River, MN 55330

The Pillsbury Company
ATTN: Carl A. Smith - MS3750
The Pillsbury Center
Minneapolis, MN 55402

Industrial Health Eng Assoc, Inc.
ATTN: Knowlton J. Caplan
P.O. Box 9342
Minneapolis, MN 55440

Community Health Service Board
ATTN: Bruce T. Rowe
325 Lake Avenue So., Suite 604
Duluth, Minnesota 55802

City of Winona
ATTN: Robert J. Bollant
4th & Lafayette Street
Winona, MN 55987

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Fletcher Law Offices
1200 Pillsbury Center
200 South 6th Street
Minneapolis, MN 55402

L L P O D Law Offices
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1100 First National Bank Bldg.
Minneapolis, MN 55402

Stolpestad, Brown & Smith
ATTN: Gary Gandrud
2000 North Central Tower
445 Minnesota Street
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Dakota County Attorney
1560 Highway 55
Hastings, MN 55033

Sheldahl
ATTN: David Miller
North Highway 3
Northfield, MN 55057

Olson Gunn & Seran, Ltd.
ATTN: Wayne H. Olson, Esq
315 Peavey Building
730 Second Avenue South
Minneapolis, MN 55402

John Aulbach II 2 Lt. MSC
Department of the Army
U.S. Armey Env. Hygiene Agency
Fitzsimons Army Med Center
Aurora, Colorado 80045

MN Railroads Association
ATTN: Gordon Forbes
303 Hanover Building
480 Cedar Street
St. Paul, MN 55101

Paul J. Huber, Ltd.
1821 University Avenue
St. Paul, MN 55104

U.S. EPA, Region V
ATTN: Kathy Brown
230 South Dearborn Street
Chicago, Illinois 60604

Dave Kolbert, Chairman
MN Coun. Trout Unlimited
2675 East River Road
Rochester, MN 55901

IBM Corporation
ATTN: J. P. Harmon
Dept 713/Bldg. 658-D
Rochester, MN 55901

Minneapolis Tribune
ATTN: Bob Franklin
425 Portland Avenue
Minneapolis, MN 55488

MN Petroleum Council
ATTN: William Haddeland
300 Northern Federal Bldg.
St. Paul, MN 55102

Public Affairs Information
State Regulatory Division
1024 10th Street, Suite 300
Sacramento, CA 95814

Pickands Mather & Company
ATTN: T. J. Manthey
1100 Superior Avenue NE
Cleveland, Ohio 44114

Bolton & Menk, Inc.
ATTN: Thomas A Roushar
515 North Front Street
Mankato, MN 56001

Ms. Shailla Regehr
Rural Route #1, Box 419
Stewartville, MN 55976

Ms. Mary Stanton
State University System
407 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

Tom Casey
Chamber of Commerce
212 First Avenue SW
Rochester, MN 55901

Steven Lebeau
623 South 9th Street, #6
Minneapolis, MN 55404

Pickands Mather & Company
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200 West Superior Street
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MN Motor Transport Assoc.
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1821 University, Room 134N
St. Paul, MN 55104

Mac Arthur Company
2400 Wycliff Street
St. Paul, MN 55114

Mr. R. A. Garvey
North Star Steel Company
1678 Red Rock Road
P.O. Box 43189
St. Paul, MN 55164

Minnkota Power Coop, Inc.
ATTN: Loren L. Johnson
Box 1318
Grand Forks, ND 58201

Duluth Missabe & Iron Range
Railway Company
210 Missabe Building
Duluth, Minnesota 55802

Mr. Henry Chisholm
Oglebay Norton Comapny
P.O. Box 6508
Cleveland, Ohio 44101

Mr. Robert E. Isakson
Cons. Engineers Diversified, Inc.
P.O. Box J
Osseo, MN 55369

George Mastor
Legal Division
Minnegasco
201 South 7th Street
Minneapolis, MN 55402

Dames & Moore
ATTN: George Nicholas
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Park Ridge, Illinois 60068

Steve Loucks
EMT
Room 137
1935 West County Road B2
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David Cera
2010 Jersey Avenue South
St. Louis Park, MN 55426

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Northern Ordinance Div.
FMC Corporation
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Cooperative Power Association
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David Braslau Associates
1313 5th Street SE, #322
Minneapolis, MN 55414

FRC/Environmental Service
500 Atwater Street
St. Paul, MN 55117

Director
Environmental Services
704 Transportation Bldg.
John Ireland Boulevard
St. Paul, MN 55155

Ramsey Co. Environmental Health
ATTN: Douglas Wood
1910 West County Road B
Roseville, MN 55113

Kris Anne Monteith
SF&A Reporting Services
1101 - 15th Street NW
Washington, D.C. 20005

United Power Association
ATTN: Michael V. O'Brien
Environmental & Land Division
Elk River, MN 55330

Mrs. R. Schoenborn
Corporate Librarian
Thermo-King
314 West 90th Street
Minneapolis, MN 55420

American Insurance Association
ATTN: Fred McGarvey
230 West Monroe Street
Chicago, Illinois 60606

MN Chapter of ABC
ATTN: Donald E. Montgomery
6300 Walker Street, Suite 109
Minneapolis, MN 55416

U of M Physical Plant Dept.
ATTN: Robert Silvagni
200 Shops Building
319 - 15th Avenue SE
Minneapolis, MN 55455

Robert Pugleasa Company, Inc.
ATTN: Gene A. Brown
61 Bedford Street SE
Minneapolis, MN 55414

Perry Grubb Assoc., Inc.
ATTN: Charles R. Singer
771 Harding Street NE
Minneapolis, MN 55413

Law Offices
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Duluth, MN 55802

Thomas M. Polt
Attorney at Law
McCarthy Building
Eyota, MN 55934

Burlington Northern, Inc.
ATTN: J. D. Giallombardo
176 East 5th Street, Room 1280
St. Paul, MN 55101

Rice County Planning Office
610 NW 20th Street
P.O. Box 40
Faribault, MN 55021

CALC
ATTN: Pam Barbour
122 West Franklin Ave., Room 302
Minneapolis, MN 55404

Health & Social Services
ATTN: Robert Hutchison
Anoka County Courthouse
325 West Main Street
Anoka, Minnesota 55303

Mr. Mike Shotland Rep
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President
Interstate Power Company
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Mr. Ron Spong
Environmental Health
Dakota County Gov. Center
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D H G & G Attorneys at Law
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Mr. Donald F. Hennen
Plant Manager
Midland Glass Company
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Shakopee, MN 55379

Burlington Northern
Law Department
176 East 5th Street
St. Paul, MN 55101

Wolverton Engineering Company
847 - 40th Avenue NE
Columbia Heights, MN 55421

Dairyland Power Coop
ATTN: Thomas A. Steele
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2615 East Avenue South
La Crosse, Wisconsin 54601

Rochester Public Utilities
ATTN: Joseph Hensel
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Rochester, MN 55901

Ruth Saari
Isaak Walton League
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Edina, MN 55410

Sargent & Lundy Engineers
55 East Monroe Street
Chicago, Illinois 60603

Henningson Durham & Rich.
Power and Energy Div.
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5401 Gamble Drive
Minneapolis, MN 55416

Land O'Lakes
ATTN: James A Bosch
4001 Lexington Avenue North
Arden Hills, MN 55112

International Eco Society
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St. Paul, MN 55106

Delaney Thompson & Solum
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KSTP AM Radio
ATTN: J. B. Eckert
3415 University Avenue
St. Paul, MN 55114

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alkaloid, in limited quantities as follows, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by ~~the~~ narcotic ~~drug~~ drugs alone:

Statutory Names	Some examples of common names, trade names, or names of products which contain a controlled substance.
~~A.~~ (1) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.	
~~B.~~ (2) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.	
~~C.~~ (3) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.	Lomotil
~~D.~~ (4) Not more than 15 milligrams of anhydrous morphine per 100 milliliters or per 100 grams.	Parapectolin, Donnagel P.G.
~~E. Loperamide~~	~~Imodium~~

RENUMBERING. Renumber the Minnesota Rules parts in column A as the Minnesota Rules parts in column B.

A	B
6800.0900	6800.2250
6800.1000	6800.1150
6800.1100	6800.1250
6800.1200	6800.1300
6800.2000	6800.2150
6800.2100	6800.1050
6800.2200	6800.0950
6800.3500	6800.4150
6800.3600	6800.3550
6800.3700	6800.3650
6800.3800	6800.3750
6800.3900	6800.3850
6800.4000	6800.3950
6800.4100	6800.4050

Pollution Control Agency

Proposed Rules Governing Hazardous Waste Fees

Notice of Intent to Adopt Amendments to Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt without a public hearing, in accordance with the provisions of Minn. Stat. § 16A.128 (Supp. 1983), amendments to 6 MCAR §§ 4.9701-4.9706 (Minnesota Rules Parts 7046.0010-7046.0070, Hazardous Waste Facility and Generator Fee Rules. In accordance with Minn. Stat. § 16A.128 (Supp. 1983), the Agency will follow the procedure for non-controversial rules set out in Minn. Stat. §§ 14.22 to 14.28 (Supp. 1983), with the exception that no public hearing will be held in the event that twenty-five or more requests for hearing are received.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

The proposed rule amendments are authorized by Minn. Stat. § 116.12 (Supp. 1983). A copy of the proposed rules is enclosed. One free copy of the rules is available on request from the Agency. Please contact the person whose name and address appears below.

The Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments and identifies the data and information relied upon by the Agency to support the proposed amendments. Copies of the Statement of Need and Reasonableness and of the proposed amendments are available and may be obtained by contacting:

Stephen Lee
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 297-1779

Interested persons have until 4:30 p.m. on Monday, December 17, 1984, to submit comments on the proposed rule amendments. Comments should be submitted to Stephen Lee at the address stated above. The proposed rule amendments may be modified if the data and views received by the Agency before the end of the comment period warrant modification and the modification does not result in a substantial change in the proposed amendments.

One of the modifications which the Agency will be considering during the comment period is an exemption from the payment of initial generator fees for certain classes of non-metropolitan generators. The exemption is being considered for generators of small quantities of hazardous waste whose wastes are being recycled off-site, such as dry cleaners, automobile service stations, and small automobile repair facilities. The Agency encourages interested persons to submit comments on any adverse effects which the proposed rule amendments would have on the recycling practices of these generators.

Upon adoption of the amendments by the Agency Board, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rule as adopted will be sent to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final amendments as adopted, should submit a written statement of such request to Stephen Lee at the address previously stated.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (Supp. 1983), "Small business considerations in rulemaking," that the proposed rule amendments may have an impact on some small businesses in Minnesota. The amendments will raise annual facility fees by approximately 485 percent. Some small businesses may operate facilities subject to these fees. Many generators of hazardous waste may qualify for small business status. If waste generation and management practices remain the same, the fee increases will be approximately 70 percent for generators located in non-metropolitan area counties and 35 percent for generators located in metropolitan counties.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (Supp. 1983) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250 not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Thomas J. Kalitowski
Executive Director

Rules as proposed

7046.0010 DEFINITIONS.

Subpart 1. to 4. [Unchanged.]

Subp. 4a. Free liquids. "Free liquids" means liquids that readily separate from the solid portion of the waste under ambient temperature and pressure.

Subp. 5. to 17. [Unchanged.]

Subp. 17a. Response action. "Response action" means removal or remedial action taken according to the provisions of the Environmental Response and Liability Act, Minnesota Statutes, sections 115B.01 to 115B.24, or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law Number 96-510.

Subp. 18. to 24. [Unchanged.]

7046.0020 HAZARDOUS WASTE FACILITY FEES.

Subpart 1. Fee schedule for five-year permits. ~~A facility owner or operator who seeks a five-year permit shall remit fees as follows:~~ A person applying for issuance or reissuance of a five-year permit for a hazardous waste facility shall remit the permit application fee or permit reissuance fee given in item A or B. A person who owns or operates a hazardous waste facility that is in operation on July 1 in any year shall remit the annual facility operator's fee for that fiscal year.

	Permit Application Fee	Annual Facility Operator's Fee		Permit Reissuance Fee
A. Storage				
Tanks and containers indoors				
Total capacity greater than 550 gallons	$ 750	~~225~~	1,100	$ 375
Total capacity 550 gallons or less	500	~~100~~	485	~~250~~
Tanks and containers outdoors				
Total capacity greater than 550 gallons	~~1,500~~	~~450~~	2,200	750
Total capacity 550 gallons or less	1,000	~~180~~	875	500
Piles	4,500	~~1,300~~	6,300	2,250
Surface impoundment	7,500	~~1,300~~	6,300	3,750
B. Disposal and treatment				
Surface impoundment	9,000	~~1,800~~	8,700	4,500
Treatment (not otherwise specified including open burning)	9,000	~~900~~	4,400	4,500
Thermal treatment (not including open burning)	22,500	~~3,150~~	15,300	11,250
Land treatment	22,500	~~3,150~~	15,300	11,250

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Land disposal (includes surface impoundments in which waste remains after closure)	22.500	~~3.150~~	15.300	11.250

Subp. 2. [Unchanged.]

Subp. 3. Combination facilities. An application fee for a facility consisting of several treatment, storage, or disposal functions must be calculated according to the following schedule for application fees and annual operator's fees:

Facility Description	Fee Calculation	Permit Reissuance Fee
A. Thermal treatment + treatment + storage	Thermal treatment + 0.2 × fee for treatment + 0.2 × fee for storage	All facilities 50 percent of application fee as calculated according to schedule
B. Disposal + storage	Disposal + 0.2 × fee for storage	
C. Thermal treatment + storage	Treatment + 0.2 × fee for storage	
D. Disposal + thermal treatment	Disposal + 0.2 × fee for thermal treatment	
E. Thermal treatment + disposal + treatment + storage	Disposal + 0.8 × fee for thermal treatment + 0.2 × fee for treatment + 0.2 × fee for storage	
F. Disposal + land treatment	Disposal + 0.8 × fee for land treatment	
G. Land treatment + storage	Land treatment + 0.2 × fee for storage	
H. Treatment + storage	Treatment + 0.2 × fee for storage	

Subp. 4. [Unchanged.]

Subp. 5. Payment schedule. Fees must be made payable to the state treasurer and submitted to the director as follows:

A. ~~For facilities which have submitted the part B application as described in Code of Federal Regulations, title 40, parts 122 and 264 prior to February 6, 1984, the owner or operator shall remit payment of the appropriate fees within 60 days of February 6, 1984, provided permits have not been issued as of February 6, 1984.~~

~~B. For facilities which have not submitted the part B application,~~ The owner or operator of a facility shall remit the permit application fee when he or she submits the application ~~or facility plans and specifications for a new facility~~.

~~C.~~ B. The owner or operator shall sumbit the annual facility operator's fee not later than June 30 of each year.

~~D.~~ C. Permit reissuance fees must be submitted with the application for permit reissuance.

Subp. 6. Failure to submit fees. Failure to submit fees by the required date results in the following penalties:

A. A facility permit application submitted without the facility application fee is incomplete. The director shall suspend further processing of the permit application until the appropriate fee is received by the director.

B. and C. [Unchanged.]

Subp. 7. [Unchanged.]

7046.0030 NONMETROPOLITAN AREA GENERATOR FEES.

Subpart 1. Basis of fees. The agency shall charge nonmetropolitan area generator fees that are based on the annual reports submitted by generators, disclosures, ~~or~~ and other appropriate information available to the agency.

Subp. 2. Small generator exemption. Nonmetropolitan area generators that generate a total of less than the equivalent of ten gallons or 100 pounds of hazardous waste per year are exempt from the generator fee requirements of this part.

For purposes of this part, a conversion factor of one gallon of hazardous waste equals ten pounds of hazardous waste will be used.

Subp. 2a. Retroactive fee collection. Annual fees, generator surcharges, and initial fees must be paid by generators for each fiscal year beginning July 1, 1983, for those years in which the generator generated hazardous wastes according to the fee schedules in effect for each of those fiscal years.

Subp. 3. Initial fees. Initial fees must be paid by a nonmetropolitan generator who is a new generator after ~~the effective date of parts 7046.0010 to 7046.0070~~ February 5, 1984, or who has failed to submit a disclosure prior to July 1, 1983, or who has added a waste not previously listed on a disclosure.

Initial fees for nonmetropolitan area generators are as follows:

A. For unsewered liquid waste, the initial fee is ~~$60~~ $100 plus ~~$40~~ $50 for each additional waste stream over one.

B. For sewered liquid waste, the initial fee is ~~$30~~ $40.

C. For unsewered solid waste, the initial fee is ~~$60~~ $100 plus ~~$40~~ $50 for each additional waste stream over one.

Subp. 4. Fee for previously unreported waste. If a generator ~~adds a waste that has not been previously reported to the agency, the generator shall pay a fee of $40 to the agency for each new waste stream~~ had filed a disclosure and had been producing a waste that was not listed on the disclosure, the generator shall pay a fee of $40 plus the annual fees and surcharges according to the fee schedules in effect for each year in which that waste had been produced.

Subp. 4a. Fee for new process wastes. If a generator had previously filed a disclosure and begins a new process that had not previously been listed on the disclosure, the generator shall pay a fee of $40 to the agency for each new waste stream.

Subp. 5. Annual fees. Nonmetropolitan area generators shall submit annual fees as follows:

Waste Category	11-55 gallons per year	56-500 gallons per year	501-1000 gallons per year	1000+ gallons per year
Unsewered liquid	~~$30~~ $40	~~$60~~ $90 + ~~$20~~ $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one	~~$90~~ $130 + ~~$20~~ $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one	~~$90~~ $130 + ~~$20~~ $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one plus ~~$12~~ $16 for each additional 1000 gallons

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Sewered liquid waste	~~All volumes—$75 per year all waste streams~~ 11 or more total gallons of sewered waste—$100 per year		
Unsewered solid waste (solid waste reported in terms of volume, e.g. 55 gallon drums, will be converted to weight units by a conversion factor of 10 pounds per gallon reported)	100-550 pounds per year ~~$30~~ $40	551-5000 pounds per year ~~$60~~ $90 + ~~$20~~ $25 ~~for each~~ additional waste stream (greater than 10 gallons or 100 pounds) over one	Over 5000 pounds per year ~~$90~~ $130 + ~~$20~~ $25 for each additional waste stream (greater than 10 gallons or 100 pounds) over one plus ~~$5~~ $7 for each additional 5000 pounds or fraction thereof

Subp. 6. Payment schedule. ~~In the fiscal year ending June 30, 1984,~~ A nonmetropolitan area generator shall submit fees within 60 days upon receipt of the notice from the director that the fees are due. Fees submitted later than 30 days after the due date are deemed late.

~~Following the first annual payment, a nonmetrpolitan area generator shall remit fees according to the following schedule based on the "Standard Industrial Classification" (SIC) as designated in the Standard Industrial Classification Manual (1972), Executive Office of the President, Office of Management and Budget, United States Government Printing Office. If a generator has more than one SIC number, that number which occurs first in the table determines the date fees are due.~~

~~Standard Industrial Classification~~	~~Type of Activity~~	~~Date Due~~
~~29~~	~~Petroleum and coal~~	~~July 1~~
~~31~~	~~Tanning~~	~~July 1~~
~~33~~	~~Primary Metal~~	~~July 1~~
~~36~~	~~Electric machinery~~	~~July 1~~
~~49~~	~~Electric power generating~~	~~July 1~~
~~80~~	~~Health services~~	~~July 1~~
~~82~~	~~Education services~~	~~July 1~~
~~91~~	~~Government~~	~~July 1~~
~~26~~	~~Paper~~	~~October 1~~
~~28~~	~~Chemicals~~	~~October 1~~
~~34~~	~~Fabricated metal~~	~~October 1~~
~~35~~	~~Machinery (except electrical)~~	~~October 1~~
~~20~~	~~Food~~	~~January 1~~
~~22~~	~~Textiles~~	~~January 1~~
~~24~~	~~Lumber and wood~~	~~January 1~~
~~27~~	~~Printing~~	~~January 1~~
~~32~~	~~Stone, clay, and glass~~	~~January 1~~
~~40~~	~~Railroads~~	~~January 1~~
~~45~~	~~Airlines~~	~~January 1~~
~~25~~	~~Furniture~~	~~April 1~~
~~30~~	~~Rubber and plastic~~	~~April 1~~
~~37~~	~~Transportation equipment~~	~~April 1~~
~~38~~	~~Measuring instruments~~	~~April 1~~
~~39~~	~~miscellaneous manufacturing~~	~~April 1~~
~~51~~	~~Wholesale nondurables~~	~~April 1~~
~~55~~	~~Automotive sales~~	~~April 1~~
~~75~~	~~Automotive repair~~	~~April 1~~
	~~All others not listed above~~	~~April 1~~

A nonmetropolitan area generator shall submit a check for the required amount to the director, made payable to the state treasurer.

Subp. 7. Failure to submit fees. If a nonmetropolitan area generator fails to submit the required fees within 30 days of the due date, the generator shall pay ~~a~~ the fees plus late ~~fee of ten percent of the annual fee and the unpaid penalty~~ fees for each 30-day period or fraction that the fee remains unpaid~~, up to 90 days~~. The late fee for each of the three 30-day periods or fraction between the due date and 90 days beyond the due date is ten percent of the total of the annual fee. Beyond 90 days, the late fee for each 30-day period or fraction beyond 90 days is 15 percent of the annual fee ~~and the unpaid penalty for each 30-day period or fraction that the fee remains unpaid~~.

If a nonmetropolitan area generator fails to submit the requested fees within 90 days of the due date, the generator becomes liable for reasonable additional expenses the agency incurs in collection of the fee, in addition to the fees and late fees. These additional expenses include but are not limited to additional agency staff expenses (on a per hour basis, incluidng staff fringe benefits and indirect charges), mileage charges, litigation expenses (including the attorney general's expenses), and collection agency or other fees.

7046.0040 GENERATOR SURCHARGE.

Subpart 1. In general. All generators in Minnesota are subject to an annual surcharge equal to ~~17.5~~ 50 percent of the annual fee. Payment must be made as provided in subparts 2 and 3.

Subp. 2. and 3. [Unchanged.]

REPEALER. Minnesota Rules, part 7046.0050, subpart 1 is repealed.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Housing Finance Agency

Adopted Rules Amending the Solar Energy and Energy Conservation Bank Programs

The rules proposed and published at *State Register*, Volume 9, Number 8, pages 378-379, August 20, 1984 (9 S.R. 378) are adopted as proposed.

Department of Human Services

Adopted Emergency Rules Governing General Assistance

The rule proposed and published at *State Register*, Volume 9, Number 10, pages 482-488, September 3, 1984 (9 S.R. 482) is adopted with the following modifications:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY

Proposed Amendments to 6 MCAR §§4.9701 - 4.9706 (Minnesota Rules Parts 7046.0010 - 7046.0070), Hazardous Waste Facility and Generator Fee Rules

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 26th day of February, 1985. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Agency, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness and the written comments submitted to the Agency, after considering all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact and Conclusions.

FINDINGS OF FACT

1. The Agency published its notice of intent to adopt the above-captioned rule amendments, together with the proposed rule amendments, in the State Register on November 12, 1984 (9 S.R. 1051).

2. On November 9, 1984, the Agency gave the same notice by United States mail to all persons who have registered their names with the Agency pursuant to Minn. Stat. §14.14 (1984).

3. The notice of the Agency's intent to amend the rules afforded all interested persons 30 days to submit data and views

on the proposed rules. The notice was in all respects in compliance with the requirements of Minn. Stat. §14.22 (1984).

4. The Agency prepared a Statement of Need and Reasonableness and made it available to the public upon the date of mailing of the notice of intent to adopt the rules.

5. The 30 day comment period, as set out in the notice, expired on December 17, 1984.

6. During the comment period, the Agency received eight written comments.

7. The Agency finds that the following three modifications to the proposed rules are supported by the data and views submitted to the Agency within the comment period:

a. Part 7046.0010, Definitions

Minn. Rules Part 7046.0010 is amended to add a new definition of "waste stream," to be codified as subpart 25:

> Subp. 25. Waste Stream. "Waste stream" means all wastes of a particular composition generated by the same process at a generator's site.

The addition of a definition of waste stream was suggested by Pickands Mather, who commented that the lack of a definition presents a problem for generators who must pay extra fees for having more than one waste stream but do not know what constitutes "waste stream." The additional definition represents a clarification of existing rule language and does not represent

a change in the way the original rule has been interpreted.

b. Part 7046.0030, subp. 3, Initial fees.

Minn. Rules Part 7046.0030, subp. 3 is amended to add an exemption from initial fees for certain quantities of unsewered solid or liquid waste which is recycled, reused, or recovered off-site:

> Initial fees. Initial fees must be paid by a nonmetropolitan generator who is a new generator after February 5, 1984, or who has failed to submit a disclosure prior to July1, 1983, or who has added a waste not previously listed on a disclosure. Waste streams consisting of less than 165 gallons per year or 1650 pounds per year of unsewered solid or liquid waste which is recycled, reused, or recovered off-site are not subject to the intial fees.

This modification was suggested by the Agency staff in a memorandum submitted during the comment period.

The Notice of Intent to Adopt Amendments to Rules Without a Public Hearing published at 9 S.R. 1051 (November 12, 1984) notified the public that an exemption of this nature was being considered. The Notice states, at page 1052:

> One of the modifications which the Agency will be considering during the comment period is an exemption from the payment of initial generator fees for certain classes of non-metropolitan generators. The exemption is being considered for generators of small quantities of hazardous waste whose wastes are being recycled off-site, such as dry cleaners, automobile service stations, and small automobile repair facilities. The Agency encourages interested persons to submit comments on any adverse effects which the proposed rule amendments would have on the recycling practices of these generators.

The Agency received numerous comments on this subject which

encouraged the Agency to adopt the type of exemption described in the notice. The commenters asserted that fees for beneficially used, reused, recycled or reclaimed waste streams punish, or at least do not reward the generators of those recycled waste.

The Agency recognizes the general desirability of waste recycling. The Agency recognizes that collection of fees for recycled waste does not encourage recycling. The proposed exemption from initial fees will give some relief to new generators or newly disclosing generators of off-site recycled waste streams of less than 165 gallons or 1650 pounds per year of recycled waste. However, the Agency is not proposing to eliminate annual fees for these wastes, since the Agency does incur regulatory costs in order to ensure that recycling is actually being done, and done in an environmentally sound manner. The proposed modification represents a reasonable balance between the Agency's need to raise revenue and its desire not to discourage recycling, reuse, and recovery of waste streams.

c. Part 7046.0010, subp. 7, Failure to submit fees.

The second paragraph of this rule is amended to delete the last sentence:

> If a nonmetropolitan area generator fails to submit the requested fees within 90 days of the due date, the generator becomes liable for reasonable additional expenses the agency incurs in collection of the fee, in addition to the fees and late fees. ~~These additional~~

~~expenses include but are not limited to additional agency staff expenses (on a per hour basis, including staff fringe benefits and indirect charges), mileage charges, litigation expenses (including attorney general's expenses), and collection agency or other fees.~~

This modification is supported by a comment of the Agency staff, which was submitted during the comment period, stating that the last sentence is not needed because the phrase "reasonable additional expenses" is sufficiently clear to notify the regulated community of its potential liability under this section.

8. The Agency adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the amendments to the rules. The Agency hereby incorporates the Statement of Need and Reasonableness into these findings.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Agency published and served due, timely and adequate notice of the intent to adopt amendments to the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

4. The modifications to the proposed rules is supported by the data and views submitted to the Agency within the comment

period and does not result in a substantial change in the proposed rules.

MINNESOTA POLLUTION CONTROL AGENCY

Duane Dahlberg
Chairperson

Thomas J. Kalitowski
Executive Director

Dated: February 26, 1985

CERTIFICATE OF AGENCY'S RESOLUTION ADOPTING RULES

I, Duane Dahlberg, do hereby certify that I am a member and the Chairperson of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 26th day of February, 1985, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified.

BE IT RESOLVED, that the Minnesota Pollution Control Agency hereby approves and adopts the attached amendments to Minnesota Rules Parts 7046.0010 - 7046.0070, Hazardous Waste Facility and Generator Fee Rules, as attached, pursuant to the authority vested in the Agency by Minn. Stat. §116.12 (1984).

BE IT FURTHER RESOLVED, that prior to publishing the rule amendments as adopted in the State Register, the Executive Director is authorized to make any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's Certificate as required by Minn. Stat. §14.08 (1984).

BE IT FURTHER RESOLVED, that the Agency adopts the attached Findings of Fact and Conclusions and Order Adopting Rules and that the Chairperson and the Executive Director are hereby authorized to execute the above-named documents on behalf of the Agency.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26th day of February, 1985.

DUANE DAHLBERG
Chairperson

Attest by one other Agency member

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Proposed Amendments to 6 MCAR §§4.9701 - 4.9706 (Minnesota Rules Parts 7046.0010 - 7046.0070), Hazardous Waste Facility and Generator Fee Rules

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The Minnesota Pollution Control Agency (Agency) has promulgated Hazardous Waste Facility and Generator Fee Rules, 6 MCAR §§4.9701 - 4.9706 (recodified as Minn. Rules Parts 7046.0010 through 7046.0070), which became effective on February 6, 1984. The rules were adopted pursuant to the authority granted to the Agency by Minn. Stat. §116.12 (Supp. 1983). The statute, together with the 1983 appropriation bill, required the Agency to establish fees to collect funds in the amount of $794,400. In accordance with the requirement of Minn. Stat. §16A.128, subd. 1 (Supp. 1983), the Agency has reviewed the fee schedule and has determined that it is inadequate to result in collection of the total $794,400 as required by the legislature. As a result, the Agency is proposing amendments to the rules.

The proposed rule amendments, if adopted, will increase annual hazardous waste facility fees by 485 percent, will increase generator fees by approximately one-third, and will increase the statewide generator surcharge to 50 percent. Several clarifying amendments to the rule are also proposed.

The Agency is amending the rules according to the procedure for noncontroversial rulemaking provided in Minn. Stat. §§14.21 through 14.28, except that no public hearing will be held in the

received. The legislature has specifically provided that no public hearing is required to be held on these rule amendments. Minn. Stat. 116.12, subd. 1 provides:

> The Agency shall establish the fees provided in subdivisions 2 and 3 in the manner provided in section 16A.128 to cover the amount approproiated from the general fund to the agency for that year for permitting, monitoring, inspection, and enforcement expenses of the hazardous waste activities of the agency.

(Emphasis supplied.) Minn. Stat. §16A.128, recently amended by Minn. Laws 1984, art. 2, section 1, requires these fee adjustments to be made by rule. The statute provides:

> Subd. 2a. Procedure. Other fees fixed by law must be fixed by rule. The procedure for noncontroversial rules in sections 14.21 to 14.28 may be used except that no public hearing may be held. The notice of intention to adopt the rules must state that no hearing will be held. This procedure may be used only when the total fees estimated for the biennium do not exceed the sum of direct appropriations, indirect costs, transfers in, and salary supplements for that purpose. A public hearing is required for adjustments of fees spent under open appropriations of dedicated receipts.

(Emphasis supplied.)

A notice of intent to solicit outside opinion on the amendment of the rules was published in the State Register on July 16, 1984 (9 S.R. 179). Public comment on the draft rule amendments was received at a meeting of the Agency's Rules Committee held on September 24, 1984. A public informational meeting in which public comment was received on the draft rules was held on October 15, 1984.

A part of the administrative requirement for the rulemaking process is review and approval of the fee schedule in the rules by the Minnesota Commissioner of Finance. The approval dated November 5, 1984, is attached as Exhibit A.

II. STATEMENT OF THE AGENCY'S STATUTORY AUTHORITY

The Agency's statutory authority for the Hazardous Waste Facility and Generator Fee Rules is set forth in Minn. Stat. §116.12 (Supp. 1983), which provides:

> Subdivision 1. Fee schedules. The agency shall establish the fees provided in subdivisions 2 and 3 in the manner provided in section 16A.128 to cover the amount appropriated from the general fund to the agency for that year for permitting, monitoring, inspection and enforcement expenses of the hazardous waste activities of the agency.
>
> The legislature may appropriate additional amounts that need not be covered by fees or may provide that the fees shall cover only a portion of the general fund appropriation for the hazardous waste activities of the agency, in order to assure adequate funding for the regulatory and enforcement functions of the agency related to hazardous waste. All fees collected by the agency under this section shall be deposited in the general fund.
>
> Subd. 2. Hazardous waste generator fee. Each generator of hazardous waste shall pay a fee on the hazardous waste which he generates. The agency shall compute the amount of the fee due based on the hazardous waste disclosures submitted by the generators and other information available to the agency. The agency shall annually prepare a statement of the amount of the fee due from each generator. The fee shall be paid annually commencing with the first day of the calendar quarter after the date of the statement.
>
> The agency may exempt generators of small quantities of

> hazardous waste otherwise subject to the fee if it finds that the cost of administering a fee on those generators is excessive relative to the proceeds of the fee. The fee shall consist of a minimm fee for each generator not exempted by the agency and an additional fee based on the quantity of wastes generated by the generator.
>
> If any metropolitan counties recover the costs of administering county hazardous waste regulations by charging fees, the fees charged by the agency outside of those counties shall not exceed the fees charged by those counties. The agency shall not charge a fee in any metropolitan county which charges such a fee. The agency shall impose a fee calculated as a surcharge on the fees charged by the metropolitan counties and by the agency to reflect the agency's expenses in carrying out its statewide hazardous waste regulatory responsibilities. The surcharge imposed on the fees charged by the metropolitan counties shall be collected by the metropolitan counties in the manner in which the counties collect their generator fees. Metropolitan counties shall remit the proceeds of the surcharge to the agency by the last day of the month following the month in which they were collected.
>
> Subd. 3. Facility fees. The agency shall charge an original permit fee, a reissuance fee and an annual operator's fee for any hazardous waste facility regulated by the agency. The agency may include reasonable and necessary costs of any environmental review required under chapter 116D in the original permit fee for any hazardous waste facility.

The rationale behind the legislature's enactment of the statute was that persons generating and handling hazardous waste should pay a portion of the administrative costs of regulating hazardous waste activities.

The appropriation which the fees are intended to cover was in the amount of $794,400 for the 1984-1985 biennium ending June 30, 1985.

The Agency's obligation to review and, if necessary, to

adjust the amount of the fees is set forth in Minn. Stat. §16A.128, as amended by Minn. Laws 1984, ch. 628, art. 2, §1, which provides, in relevant part:

> Subdivision 1. Approval. Fixed fees for accounts for which appropriations are made may not be adjusted without the approval of the commissioner [of finance]. If the fee or fee adjustment is required by law to be fixed by rule, the commissioners approval must be in the statement of need and reasonableness. These fees must be reviewed each six months. Except as determined by the commissioner, adjustments must be made so the total fees nearly equal the sum of the appropriation for the accounts plus the agency's general support cost and statewide indirect costs attributable to the fee function.

(Emphasis supplied.)

Based on the foregoing statutes, the Agency has statutory authority to adopt the proposed rule amendments.

III. STATEMENT OF NEED

The need to adopt the proposed rule amendments arises from the fact that actual collections of fees under the rules since their February 6, 1984, effective date have fallen short of expected revenues and that, unless the fees are increased, the Agency's collections for the biennium will fall far short of the $794,400 target amount.

The Agency's intention in adopting the original rules was to collect over half of the $794,400 from hazardous waste facility fees and to collect the remainder from hazardous waste generator fees. The Agency estimated that facility fees would generate

$455,560 for the biennium. The breakdown of these estimates is shown below.

ESTIMATED REVENUES, ORIGINAL PERMIT APPLICATION AND ANNUAL FACILITY OPERATOR FEES

1983 Estimate

Permit Fees	FY 1984	Number of Facilities	FY 85	Number of Facilities	Biennium
Storage	$13,500	9	$22,500	15	$36,000
Treatment & Storage	$18,000	2	$65,100	7	$83,700
Thermal Treatment & Storage	$45,600	2	$45,600	2	$91,200
Disposal & Storage	--	-	$22,800	1	$22,800
Subtotal	$77,700	13	$156,000	25	$233,700
Annual Fees	$110,930	125	$110,930	125	$221,860
Total	$188,630		$266,930		$455,560

The Agency also estimated the amount of revenue that would be generated by the hazardous waste generator fees. The estimated revenues that these fees would generate is $339,899. The breakdown of these estimates is shown below.

ESTIMATED REVENUES, HAZARDOUS WASTE GENERATOR FEES

1983 Estimate

	FY 84	Number of Facilities	FY 85	Number of Facilities	Biennium
Non-metro area fees	$113,000	549	$120,000	586	$233,000
Non-metro surcharge	$19,775	549	$21,000	586	$40,775
Metro surcharge (17.5 percent of 1983 est.)	$33,057		$33,057		$66,114
TOTAL	$165,832		$174,057		$339,889

The sum of the estimate of revenues from hazardous waste facility fees and the estimate of revenues from hazardous waste generator fees and surcharge was $795,499, which was slightly over the total sought to be collected. However, because there were a number of uncertainties involved the estimates, and given the possibility that not all fees would successfully be collected, it was reasonable to set the fees at the levels which were adopted.

Total revenues received during Fiscal Year 1984 totaled approximately $215,000. This represents a shortfall of approximately $139,500 from projected revenues. The reasons for this shortfall are multiple:

1. Approximately 30 percent of the generators were found to fall into "no fee" categories of oil-only generators; small quantity (less than 10 gallons or 100 pounds per year) or on-site recyclers.

2. A number of generators supplied updated disclosure information which resulted in reduced or no fees.

3. The metropolitan area county generator surcharge projection had been projected on a full 1984 Fiscal Year. Because of the timing of rule adoption, surcharges were collected only for April through June of Fiscal Year 1984.

4. Thirty-four facilities withdrew from or changed hazardous waste treatment, storage, or disposal activities or had been improperly classified. These facility status changes have resulted in revenue losses ranging from $500 to $28,020 per facility. The current list of hazardous waste facilities numbers approximately 60.

The Agency has revised its revenues projections for Fiscal Year 1985 based on the most recent information available. These figures are shown below:

REVENUE PROJECTIONS FOR 1985 IF NO AMENDMENTS ARE ADOPTED

Facility Annual Fees	$30,000
Facility Application Fees	$69,600
Non-Metro Generator Fees	$100,000
Metro Generator Surcharge	$33,000
TOTAL	$232,600

These projections expect that the Agency can expect a shortfall of $208,987 for Fiscal Year 1985 unless the Agency increases the fees.

The following chart demonstrates the expected shortfalls for both Fiscal Year 1984 and Fiscal Year 1985, based on revised revenue estimates.

COMBINED TOTALS SUMMARY

	FY 84	FY 85	Biennium
1983 Projection	$354,462	$440,987	$795,449
Current Projection	215,000	232,000	447,000
Shortfall	$139,462	$208,987	$348,449

Without an increase in the fee schedule revenue from fees will continue to decrease. This is because:

1. The facility "Application" fee, which is three to eight times the "Annual" fee, is a one-time only fee.

2. Approximately one-half of facilities requested to submit a "Part B" application have withdrawn from or changed facility activities. The application fee is not collected from these facilities, and subsequent annual fees are lost.

3. Facilities and generators continue to respond to the high cost of hazardous waste disposal through reduction in the number and volumes of hazardous waste streams and through waste recycling. These actions are encouraged by the Agency but result in lost fees.

Further reductions in fee collections will inevitably result in the Agency's failure to meet its statutory mandate to collect $794,400 through these fees. For this reason, it is necessary to amend the rules to increase the fees.

IV. STATEMENT OF REASONABLENESS

Because the Agency collected only $215,000 during Fiscal Year 1984, in order to collect enough money to meet the target of $794,400, the Agency must raise its hazardous waste facility and generator fees to generate $579,400 during Fiscal Year 1985.

The Agency believes that the following steps would result in the collection of enough money to meet the $794,400 target by the end of the 1984-1985 biennium:

1. Increase in generator fees to the level allowed by statute; i.e., the general levels currently charged by Hennepin County (approximately a one-third increase.)

2. Increase in the statewide generator surcharge from 17.5 percent to 50 percent.

3. Increase facility annual fees by 485 percent.

The Agency has projected revenues based on the fee schedule contained in the proposed amendments. These figures are shown below.

REVENUE PROJECTIONS FOR 1985 IF AMENDMENTS ARE ADOPTED

Facility Annual Fees	$146,000
Facility Application Fees	$69,600
Non-Metro Generator Fees	$270,000
Metro Generator Surcharge	$94,000
TOTAL	$579,600

When the $579,600 is added to the $215,000 already collected by the Agency, the total is slightly ($200) over the target amount. However, given the fact that there are several uncertainties involved in the estimates, and given the possiblity that not all fees will successfully be collected, it is reasonable to set the fees at the levels proposed in the rules.

The proposal to increase the fees to a level high enough to

collect the full amount of $794,400 during the biennium is reasonable because it is aimed at the legislature's objective that the Agency collect from persons generating and handling hazardous waste a portion of the administrative costs of regulating hazardous waste activities.

The following discussion addresses the reasonableness of the specific provisions of the proposed amendments to Minn. Rules Parts 7046.0010 - 7046.0070.

Minn. Rule Part 7046.0010, Definitions

The Agency proposes to add two definitions to Minn. Rule Part 7046.001, one for "free liquids" and one for "response action." The definition of "free liquids" is identical to that set forth in the Hazardous Waste Rule, Minn. Rule Part 7045.0020. The definition of "response action" references removal or remedial action definitions contained in the Environmental Response and Liabiity Act, Minn. Stat. §115B.02, and the Comprehensive Environmental Response, Compensation and Liability Act of 1980, P.L. 96-510. It is reasonable to adopt definitions used in the hazardous waste rules and in statutes pertaining to hazardous waste because it promotes consistency among Agency programs.

Minn. Rule Part 7046.0020, Hazardous Waste Facility Fees

The Agency proposes to amend subpart 1 of the rule to state that a person who owns or operates a hazardous waste facility

that is in operation July 1 in any year must remit an annual facility operator's fee for that fiscal year. The need for this amendment was shown during the administration of the fee rules, because questions arose as to whether facilities who went out of existence during a given year were subject to an entire year's annual fee. The proposed amendment makes it clear that if a facility exists on July 1 it is subject to annual fees for that year. This is reasonable because it provides certainty both for facilities and for the Agency as to whether fees will be collected for any given facility.

The Agency proposes to amend Subparts 1.A. and 1.B. to increase annual facility operator's fees by 485 percent. This is reasonable because it is necessary in order for the Agency to collect the needed $579,400 for Fiscal Year 1985. It is more fair to raise annual facility operator's fees than to increase application fees because it spreads the increase over all facility operators in the state.

The Agency proposes to amend Subpart 1.B. to specify that the category entitled "Treatment (not otherwise specified) does include open burning and that the category entitled "Thermal treatment" excludes open burning. This change is for clarification only and is therefore reasonable.

The Agency proposes to amend subpart 3 to add a category entitled "Treatment + storage" with a fee calculation of

"Treatment + 0.2 x fee for storage." It is reasonable to establish this category because this type of facility exists in Minnesota. The rationale for setting the fee level is the same as the one used for setting fee levels in the original rules and is therefore fair and reasonable.

The Agency proposes to amend subpart 5 to delete paragraph A relating to facilities which have submitted the Part B application described in 40 C.F.R. Parts 122 and 264. This paragraph was originally adopted to address the situation where people had already submitted applications before the rules became effective. The paragraph allowed those persons sixty days to submit application fees. Because that sixty days has expired, this paragraph is no longer necessary. Therefore it is reasonable to delete it. The Agency is also proposing to amend paragraph B of subpart 5 to simply state that the permit application fee must be paid upon submission of the application. This amendment is clarifying only and is therefore reasonable.

The Agency proposes to amend subpart 6.A. to add the word "permit" before the word application. This amendment is for clarification only and is therefore reasonable.

Minn. Rules Part 7046.0030, Nonmetropolitan Area Generator Fees

Subpart 1 contains a list of information which the Agency uses to base its nonmetropolitan generator fees. The Agency

proposes to change the word "or" to "and" toward the end of the list to clarify that the Agency will use all appropriate information available to it. This amendment is for clarification only and is therefore reasonable.

The Agency proposes to amend subpart 2 to clarify how the Agency determines which small quantity generators qualify for exemption. It also specifies that the Agency, in determining equivalencies between liquid wastes and solid wastes, considers one gallon of liquid hazardous waste to equal ten pounds of solid hazardous waste. It is reasonable for the Agency to clarify to small generators the basis on which it will determine whether they meet the criteria for the exemption.

The Agency proposes to add a subpart 2a, Retroactive fee collection. The amendment explicitly states the responsibility of generators to pay fees for those previous years in which the Hazardous Waste Facility and Generator Fee Rules were in effect and in which the generator produced hazardous waste. Generators were, by law, required to disclose their hazardous waste generation in 1980 or soon after beginning waste generation. Those who failed to comply with this requirement were not billed for fees. This creates an unfairness in the regulated community which this amendment seeks to correct. If fees are not collected retroactively, generators who complied with the law will pay more than their fair share of the Agency's costs of the regulation of

hazardous waste activities. Therefore, this proposed amendment is reasonable.

The Agency proposes amend subpart 3 to replace the term "the effective date of parts 7046.0010 to 7046.0070" with the date which is one day before the actual effective date of the rules. The effective date of the rules was February 6, 1984. Replacing the phrase with this date is reasonable because the rules will have been effective on any date after February 5, 1984. Replacing the phrase with the date is reasonable for the further reason that it saves the regulated public the trouble of investigating the actual effective date of the rules. In addition, the Agency proposes to amend subpart 3 to increase nonmetropoiltan generator fees generally up to the maximum level allowed by statute; that is, the general levels charged by Hennepin County. The fees are increased by approximately one-third. This is reasonable because it is necessary in order for the Agency to collect the needed $579,400 for the Fiscal Year 1985.

The Agency proposes to amend subpart 4 to clarify it. It is now divided into two parts, subpart 4 and subpart 4a. Originally, subpart 4 referred to a "waste that has not been previously reported to the agency." Actually, previously unreported wastes could fall into two categories: 1) wastes that a generator had already been producing but which the generator did not list on the disclosure; and 2) wastes which result from a

new process of the generator. The amended subpart 4 clarifies that if a generator who had filed a disclosure and had been producing a waste that was not listed on the disclosure, the generator must pay not only $40 but also the annual fees and surcharges according to fee schedule that was in effect for each year in which the waste had been produced. This amendment is reasonable because it restores to the agency the fees which it rightfully should have been paid if the generator had complied fully with disclosure requirements. The new subpart 4a relates to wastes from a new process and provides that the generator must pay $40. This is not a change from the original rule, but merely a reorganization.

The Agency proposes to amend subpart 5 to increase nonmetropolitan generator annual fees generally up the the maximum level allowed by statute; that is, the general levels charged by Hennepin County. The fees are increased by approximately one-third. This is reasonable because it is necessary in order for the Agency to collect the needed $579,400 for Fiscal Year 1985. In addition, the Agency proposes to provide that the size of an additional waste stream which is subject to fees is "greater than 10 gallons or 100 pounds" and that "solid waste reported in terms of volume, e.g. 55 gallon drums, will be converted to weight units by a conversion factor of 10 pounds per gallon reported." It is reasonable to specify

the volumes of additional wastes subject to fees because under the initial rules generators did not know how significant an additional waste stream would have to be before the Agency would seek to collect fees. These additions provide clarity to generators.

The Agency proposes to amend subpart 6 to delete the staggered payment schedule for nonmetropolitan generators. This amendment has the effect of making the payment due date depend upon the receipt of notice from the director. This simplifies the payment schedule for generators and is therefore reasonable.

The Agency proposes to amend subpart 7 to simplify the calculation of late fees. The original rule provides for a penalty fee based in part on "the unpaid penalty." The amendment deletes charges on the unpaid penalty but escalates the late fee from ten to fifteen percent if the annual generator fees are unpaid beyond ninety days of the due date. The Agency also proposes to amend the rule to provide that if fees are unpaid beyond ninety days of the due date, the generator becomes liable for the reasonable additional expenses the Agency incurs in collection of the fee, in addition to the fees and late fees. This provision is reasonable because persons who fail to pay fees for a period in excess of 90 days force the Agency to take steps to collect the fees, which represents a regulatory cost to the Agency. If the fee schedule is to be successful in generating

the $579,400 for Fiscal Year 1985 it is necessary to recapture those costs. The rule as proposed contains an additional sentence listing the types of items which would be included in the term "reasonable additional expenses the Agency incurs in collection of the fee"; however, during the comment period the Agency staff intends to propose that the last sentence in subpart 7 be deleted.

Minn. Rule Part 7046.0040, Generator Surcharge

The Agency proposes to amend this rule to increase the annual generator surcharge applicable to all generators in the state from 17.5 percent to 50 percent. This is reasonable because it is necessary in order for the Agency to collect the needed $579,400 for Fiscal Year 1985. It is most fair to impose these increases on a statewide basis because that approach has the effect of spreading the Agency's program costs more evenly over regulated parties.

Repeal of Minn. Rule Part 7046.0050, subpart 1

The Agency proposes to repeal Minn. Rule Part 7046.0050, subpart 1, which provides:

> Waste oil exemption. Generators of waste oil are not subject to generator fees for waste oil if the waste oil is beneficially reused and does not contain hazardous wastes listed in Code of Federal Regulations, title 40, part 261, subpart D. If the director has information that the waste oil contains any listed hazardous wastes, the generator shall be subject to the appropriate fees.

This repeal is reasonable because, due to the most recent amendments to the Agency's hazardous waste rules, certain oils of pertroleum origin are no longer listed as hazardous wastes, and therefore the exemption is no longer necessary.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. §14.115 (Supp. 1983) requires the Agency, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact of the rule on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small business;

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

While drafting the proposed rule amendments, the Agency did consider whether it could make the rules less stringent and simpler with respect to small businesses. However, the important consideration in the regulation of hazardous waste is not the size of the business but the volume of hazardous waste being generated, stored, treated, or disposed. Differentiations on the

basis of business size may or may not reflect the volume of hazardous waste being regulated.

An attempt was made to categorize treatment, storage, and disposal facilities on the basis of size to reduce the facility fees for smaller facilities. However, because the technical review and enforcement effort are similar for facilities regardless of size, it became clear to the Agency that such a categorization was unrealistic for most facilities. One such categorization was made, however, by providing lower fees for a small storage facility (less than 550 gallons or 10 drums).

The amendments will raise the annual facility fees by approximately 485 percent. The actual dollar increase ranges from $385 per year to $11,150 per year. The Agency is not aware of how many persons liable for facility fee payment have small business status. It is highly unlikely that any of the disposal and treatment facilities or piles and surface impoundment storage facility operators qualify for small business status. The fee increases for remaining categories of storage facilities range from $385 per year to $1,750 per year. It is unknown whether any small businesses are liable for these fees and what impact the amendment may have upon any such businesses.

Many generators of hazardous waste may qualify for small business status. If waste generation and management practices remain the same the fee increase will be approximately 70 percent

for generators located in non-metropolitan area counties and 35 percent for generators located in metropolitan counties. The average total of all non-metropolitan area generator fees and surcharge fees in Fiscal Year 1984 was $205. It is unknown whether the increase will affect small businesses significantly.

The Notice of Intent to Adopt Rule Amendments Without a Public Hearing specifically alerts the public that the Agency is considering making a modification to the proposed rule amendment which would exempt from the payment of initial generator fees certain classes of non-metropolitan generators. The exemption is being considered for generators of small quantities of hazardous waste whose wastes are being recycled off-site, such as dry cleaners, automobile service stations, and small automobile repair facilities. Many small businesses may benefit from such an exemption.

VI. CONCLUSION

Based on the foregoing, the proposed amendments to Minn. Rules Parts 7046.0010 - 7046.0070 are both needed and reasonable.

Dated: 11/9/84

Thomas J. Kalitowski
Executive Director

306-02

EXHIBIT A

4 3145

DEPARTMENT of Finance

STATE OF MINNESOTA

Office Memorandum

TO : Tom Kalitowski, Executive Director
Minnesota Pollution Control Agency

DATE: November 5, 1984

FROM : Gordon M. Donhowe
Commissioner

PHONE: 6-2438

SUBJECT: Approval of PCA's Hazardous Waste Generator and Facility Fee Schedule

Your proposed Hazardous Waste Generator and Facility Fee Schedule is approved as submitted.

Laws of 1983, Chapter 301, Section 25 requires that fees shall cover the cost of the hazardous waste regulatory program for the biennium ending June 30, 1985. The proposed fee schedule complies with this provision in the law.

The proposed fee schedule may become effective after the necessary rule making procedures have been accomplished.

BO/BN/JMS/032

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NOV - 7 1984
MINN. POLLUTION CONTROL AGENCY

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Proposed Amendments to 6 MCAR §§4.9701 - 4.9706 (Minnesota Rules Parts 7046.0010 - 7046.0070), Hazardous Waste Facility and Generator Fee Rules

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General Jocelyn F. Olson, do hereby declare that I have examined the proposed rule amendments and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed.

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General

Dated: February 26, 1985

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

Proposed Amendments to 6 MCAR §§4.9701 - 4.9706 (Minnesota Rules Parts 7046.0010 - 7046.0070), Hazardous Waste Facility and Generator Fee Rules

AFFIDAVIT REGARDING NOTIFICATION OF SUBMISSION TO ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Stephen Lee, being duly sworn on oath deposes and says:

1. That he is the person named in the Notice of Intent to Adopt Rule Amendments Without a Public Hearing as published in the State Register (9 S.R. 1051, November 12, 1984) and as mailed to interested persons on November 9, 1984, as the person to receive requests for notification on the date that the Agency submits the above-entitled rules to the Attorney General for review.

2. That no person requested to be notified of the date that the Agency submits the rules to the Attorney General for review.

Stephen J. Lee

Subscribed and sworn to before me
this 26th day of February, 1985.

Notary Public
My Commission Expires
September 25, 1985